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9
10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 2008-369

15 THURZA HEIM,
a.k.a. THURZA MAY HEIM,
16 a.k.a. THURZA M. SANDAHL
6643 Sitio Palmas
17 Carlsbad, CA 92009

**FIRST AMENDED
ACCUSATION**

18 Registered Nurse License No. 377169

19 Respondent.

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21 Complainant alleges:

22 **PARTIES**

23 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
24 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
25 ("Board"), Department of Consumer Affairs.

26 2. On or about August 31, 1984, the Board issued Registered Nurse License
27 Number 377169 to Thurza Heim, also known as Thurza May Heim and Thurza M. Sandahl
28 ("Respondent"). Respondent's registered nurse license expired on July 31, 2006.

STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct . . .

. . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof . . .

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

1 (c) Be convicted of a criminal offense involving the prescription,
2 consumption, or self-administration of any of the substances described in
3 subdivisions (a) and (b) of this section, or the possession of, or falsification of
a record pertaining to, the substances described in subdivision (a) of this section,
in which event the record of the conviction is conclusive evidence thereof . . .

4 7. Code section 2765 states:

5 A plea or verdict of guilty or a conviction following a plea of nolo
6 contendere made to a charge substantially related to the qualifications, functions
and duties of a registered nurse is deemed to be a conviction within the meaning
7 of this article. The board may order the license or certificate suspended or revoked,
or may decline to issue a license or certificate, when the time for appeal has elapsed,
8 or the judgment of conviction has been affirmed on appeal or when an order
granting probation is made suspending the imposition of sentence, irrespective of
9 a subsequent order under the provisions of Section 1203.4 of the Penal Code
allowing such person to withdraw his or her plea of guilty and to enter a plea of
10 not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
information or indictment.

11 8. Code section 4060 states:

12 No person shall possess any controlled substance, except that furnished to
13 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
14 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
15 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or
a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
16 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.
This section shall not apply to the possession of any controlled substance by a
17 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
18 practitioner, or physician assistant, when in stock in containers correctly
labeled with the name and address of the supplier or producer.

19 Nothing in this section authorizes a certified nurse-midwife, a nurse
20 practitioner, a physician assistant, or a naturopathic doctor, to order his or
her own stock of dangerous drugs and devices.

21 9. Code section 490 states:

22 A board may suspend or revoke a license on the ground that the licensee
23 has been convicted of a crime, if the crime is substantially related to the
qualifications, functions, or duties of the business or profession for which the
24 license was issued. A conviction within the meaning of this section means a plea
or verdict of guilty or a conviction following a plea of nolo contendere. Any
25 action which a board is permitted to take following the establishment of a
conviction may be taken when the time for appeal has elapsed, or the judgment of
26 conviction has been affirmed on appeal, or when an order granting probation is
made suspending the imposition of sentence, irrespective of a subsequent order
27 under the provisions of Section 1203.4 of the Penal Code.

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14. Section 1445(b) of the Regulations states:

(a) When considering the denial of a license under Section 480 of the code, the board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

COST RECOVERY

15. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unlawful Possession and Self-Administration of Controlled Substances)**

3 22. Respondent is subject to disciplinary action pursuant to Code section
4 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section
5 2762, subdivision (a), in that in and between 1999 and January 2000, while employed as the
6 Performance Improvement/Risk Management Manager for Scripps Memorial Hospital in
7 Encinitas, California, Respondent did the following:

8 **Possession of Controlled Substances:**

9 a. Respondent possessed unknown quantities of the controlled substances
10 morphine, Demerol, and Dilaudid without valid prescriptions from a physician, dentist,
11 podiatrist, optometrist, veterinarian, or naturopathic doctor, in violation of Code section 4060, as
12 more particularly set forth in subparagraph 23 (a) below.

13 **Self-Administration of Controlled Substances:**

14 b. Respondent self-administered the controlled substances morphine,
15 Demerol, and Dilaudid without lawful authority therefor, as more particularly set forth in
16 paragraph 23 (a) below.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Use of Controlled Substances to an Extent or in an Manner**

19 **Dangerous or Injurious to Oneself and Others)**

20 23. Respondent is subject to disciplinary action pursuant to Code section
21 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section
22 2762, subdivision (b), in that Respondent used the controlled substances morphine, Demerol, and
23 Dilaudid and/or alcoholic beverages to an extent or in a manner dangerous or injurious to herself,
24 others, and the public, as follows:

25 a. In or about 1999, Respondent was hired as the Performance
26 Improvement/Risk Management Manager for Scripps Memorial Hospital, Encinitas, California.
27 In or about 1999 and/or 2000, Respondent was informed by the hospital pharmacist that she was
28 finding half-empty bottles of Demerol and suspected that the nurses were not wasting the

1 medications per hospital protocol. For approximately six weeks, Respondent collected vials of
2 Demerol, morphine, and Dilaudid that contained unused portions of medications which had not
3 been properly wasted and used the medications while at work or at home. Respondent injected
4 the medications intramuscularly and used up to 100 mg of Demerol and 5 to 10 mg of morphine
5 at a time. On or about January 28, 2000, various staff noted that Respondent exhibited signs or
6 symptoms of possible drug impairment, including nervousness, picking at her face, and poor
7 memory. Respondent underwent a drug screen and tested positive for Demerol and morphine.

8 b. On or about April 13, 2001, Respondent drove a motor vehicle while
9 under the influence of a controlled substances, alcoholic beverage or under their combined
10 influence, and was found intoxicated in public, as set forth in paragraphs 19 and 20 above.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Conviction of a Crime Involving Consumption of Controlled Substance)**

13 24. Respondent is subject to disciplinary action pursuant to Code section
14 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section
15 2762, subdivision (c), in that on or about September 18, 2001, Respondent was convicted of a
16 criminal offense involving her consumption of controlled substances, as set forth in
17 paragraphs 19 and 20 above.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein
20 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

21 1. Revoking or suspending Registered Nurse License Number 377169, issued
22 to Thurza Heim, also known as Thurza May Heim and Thurza M. Sandahl;

23 2. Ordering Thurza Heim, also known as Thurza May Heim and Thurza M.
24 Sandahl, to pay the Board of Registered Nursing the reasonable costs of the investigation and
25 enforcement of this case, pursuant to Business and Professions Code section 125.3;
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3. Taking such other and further action as deemed necessary and proper.

DATED: 5/16/08


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California

Complainant